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Attorneys for Plaintiffs NORTHWEST
 ENVIRONMENTAL ADVOCATES,
 THE OCEAN CONSERVANCY,
 and WATERKEEPERS NORTHERN
 CALIFORNIA

**IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

NORTHWEST ENVIRONMENTAL
 ADVOCATES; THE OCEAN
 CONSERVANCY; and WATERKEEPERS
 NORTHERN CALIFORNIA and its
 projects SAN FRANCISCO BAYKEEPER
 and DELTAKEEPER,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL
 PROTECTION AGENCY,

Defendant.

Case No. CV 03-05760 SI

**DECLARATION OF GREGORY B.
 HELMS IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 SUMMARY JUDGMENT**

Date: December 3, 2004
Time: 9:00 a.m.
Courtroom: 10, 19th Floor

I, Gregory B. Helms, hereby declare:

1. I am a member of The Ocean Conservancy and have been since December, 1999. I
 make this declaration to demonstrate that the Conservancy has standing to sue and to show that

1 its members, including myself, have been injured by the Environmental Protection Agency's
2 failure to repeal the regulation exempting ballast discharge water from regulation.

3 2. The Conservancy's purpose is to educate, inform, and empower citizens to speak on
4 behalf of the world's oceans. It is a membership-based and supported non-profit focusing on
5 coastal and ocean resources. The Conservancy achieves its goals through agency advocacy,
6 public outreach, conservation planning, public campaigns, sponsoring legislation, and litigation.

7 3. I joined the Conservancy because of my lifelong interest in the conservation and
8 protection of natural resources and wildlife for their aesthetic, recreational, and intrinsic value. I
9 am currently employed as the manager of the Santa Barbara Field Office of the organization.

10 4. I am aware that ships regularly discharge their ballast water into waters of the United
11 States. I am also aware that the Environmental Protection Agency (EPA) currently exempts these
12 discharges from complying with the Clean Water Act (CWA). I am concerned about the
13 problems that ballast water discharges cause to the environment. I am also concerned that EPA's
14 failure to regulate these discharges has increased the difficulty of controlling these discharges and
15 reducing the risks they present.

16 5. I live in Santa Barbara on the Pacific Coast and Santa Barbara channel. Both of these
17 areas receive significant amounts of unregulated ballast water discharges. These discharges
18 impact my environment and my ability to enjoy using the Pacific Ocean and other waterways for
19 recreation.

20 6. I participate in numerous recreational activities in the Pacific Coast and the Santa
21 Barbara Channel, including surfing, diving, kayaking, sailing, swimming, and whale watching.
22 Surfing and diving account for approximately ninety percent of my recreational activities.

23 7. I am very concerned about the effects and possible effects of ballast water on these
24 bodies of water and, in turn, me and my activities. Unregulated ballast water discharges
25 compromise and detract from my recreational experiences, especially surfing and diving. I know
26 that unregulated ballast water facilitates the introduction of numerous invasive species into my
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1 area. These invasive species damage the native ecosystems and displace the native species which
2 are the focus of my diving experience. Non-native mussels already have displaced the local
3 native species in the Channel Islands and coastal waters where I dive.

4 8. Invasive species also detract from my surfing. For example, *Sargassum muticum* is an
5 invasive dark brown weed that may have been introduced from ballast water and is prevalent in
6 my favorite surf and dive spots. The weed is known to out-compete native algae. It also wraps
7 around my legs and surf leash when I enter and exit the surf, making it difficult for me to access
8 the waves. I enjoy surfing less when I have to compete with these types of non-native plants
9 simply to access my surfing sites. Another invasive weed, *Undaria*, is also present in the waters
10 in which I recreate. I am concerned that the failure to regulate ballast water will lead to the
11 introduction of more of these non-native, choking weeds.

12 9. The introduction of invasive species also affects me economically, by damaging and
13 increasing the costs of the local diving and surfing industry.

14 10. I take great aesthetic enjoyment from the waters surrounding where I live, recreate,
15 and work. This joy, however, is diminished by my concerns that these ecosystems are being
16 forever altered and destroyed by the introduction of non-native invasive species from unregulated
17 ballast water discharges.

18 11. I am aware of the EPA rule exempting ballast water discharges from regulation under
19 the Clean Water Act. I believe that this rule contributes to the problems presented by ballast
20 water discharges, both by not directly curtailing these discharges and by sending the message that
21 ballast water discharges are not important sources of pollution. I do not believe that voluntary
22 measures are enough to limit ballast water introductions.

23 12. I believe the invalidation of the exemption will prevent the worsening of the invasive
24 species problem that currently affects the areas I use. If EPA's rule is invalidated, ships will no
25 longer be allowed to discharge ballast water into the Santa Barbara Channel, unless EPA
26 develops a permit specifically authorizing those discharges. A ban on ballast water discharges
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1 will certainly ease the concerns I have about the impacts of these discharges.

2 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
3 and correct. Executed on this 9th day of July, 2004 at Santa Barbara, California.

4 /s/ Gregory B. Helms
5 Gregory B. Helms

6 I, Deborah A. Sivas, pursuant to ECF General Order 45X, attest that Gregory B. Helms
7 has concurred in and authorized the filing of this declaration with this Court.

8 /s/ Deborah A. Sivas
9 Deborah A. Sivas
10 Attorney for Plaintiffs
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